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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO
DESERT DISTRICT

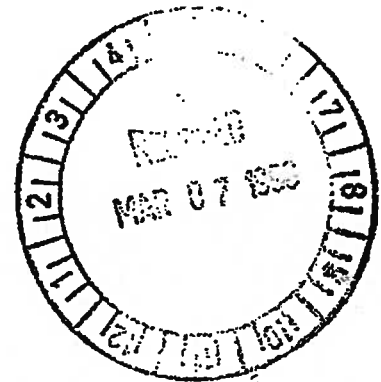
HI-DESERT COUNTY WATER)
DISTRICT,)
Plaintiff,)

vs.)

YUCCA WATER COMPANY, LTD.;)
BLUE SKIES COUNTRY CLUB; THE)
INSTITUTE OF MENTALPHYSICS;)
ANGELINA BOVERI; JUDITH G.)
BUCHANAN; ELMER F. CLOE;)
MARJORIE L. CLOE; EDWARD T.)
FICKLE; ALTA M. FICKLE;)
RAYMOND M. FORD; EMMA L. FORD;)
KATHERINE M. HAMILTON; AGNES)
K. LASLEY; ALBERT B. MACHADO;)
ALMA NUCKOLLS (AKA ALMA)
KATJE); ALBERT PAISO; MARY)
JANE PUSEY; WARREN STOKER; AND)
PATRICIA TRIPP,)
Defendants.)

CASE NO. VCV 20368
(Formerly Case Nos. RCV 59718,
SCV 172103, and MCV 198)

AMENDED JUDGMENT



The amendments herein to the Judgment entered in this action on September 16, 1977, are solely for the purpose of facilitating its filing in the official records of the San Bernardino County Recorder. The amendments herein are not intended to change the terms or effect of any final order which amends the Judgment entered in this action on September 16, 1977.

INTRODUCTION

1. Pleadings, Parties and Jurisdiction. The complaint herein was filed on July 1, 1976, seeking an adjudication of all or substantially all water rights within Warren Valley Basin. All defendants have appeared herein by stipulation, except for those defendants who have been dismissed. This Court has jurisdiction of the subject matter of this action and of the parties.

2. Stipulation for Judgment. A stipulation for judgment was filed on August 26, 1977, executed by all of the parties.

3. Findings and Conclusions. Trial was had on September 7, 1977, and findings of fact and conclusions of law have been entered.

4. Exhibits. The following exhibits are attached to this Judgment and made a part hereof:

"A" -- "General Location Map of Warren Valley Basin" showing relevant geographic, hydrologic and geologic features.

5. Definitions. As used in this Judgment, the following terms shall have the following meanings:

(a) Annual or Year -- A calendar year, unless the context shall clearly indicate a contrary meaning.

(b) Blue Skies -- Blue Skies Country Club.

(c) District -- Hi-Desert County Water District.

(d) Ground Water -- Water beneath the surface of the ground and within the zone of saturation, i.e., below the existing water table.

(e) Ground Water Basin -- An area underlain by one or

1 more permeable formations capable of furnishing substantial water
2 storage.

3 (f) Institute -- The Institute of Mentalphysics.

4 (g) Minimal Pumper -- Any pumper whose right and
5 production do not exceed one acre-foot per year.

6 (h) Native Safe Yield -- The long-term average annual
7 net native supply of water to the Basin under cultural conditions
8 of a particular year.

9 (i) Overdraft -- A condition wherein the total annual
10 production from the basin exceeds the native safe yield thereof.

11 (j) Produce or Producing -- The extraction of ground
12 water by pumping or any other method.

13 (k) Producer -- Any person who extracts water from
14 Warren Valley Basin.

15 (l) Production -- Annual quantity of water produced by
16 a producer, stated in acre feet.

17 (m) Supplemental Water -- Water imported from outside
18 the watershed of Warren Valley Basin, and water salvaged,
19 conserved or reclaimed from sources within the Basin.

20 (n) Utility -- Yucca Water Company, Ltd.

21 (o) Warren Valley Basin or Basin -- The ground water
22 basin underlying the area shown as such on Exhibit "A".

23 (p) Zone of Transmission -- A subsurface area of
24 transition between two basins through which the natural
25 underflows drain from one basin into another.

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DECLARATION

A. HYDROLOGIC CIRCUMSTANCES

6. Warren Valley Basin. Warren Valley Basin is a small desert ground water basin bounded on the north by the San Bernardino Mountains and the Pinto Mountain Fault, on the east by a zone of transition to Joshua Tree Subbasin, on the south by the Little San Bernardino Mountains and on the west by a natural topographic and ground water divide. The Basin contains a substantial quantity of ground water in storage. Average annual recharge and replenishment does not exceed 200 acre feet per year from precipitation on the basin and runoff from its limited watershed. The surface area of Warren Valley Basin is approximately 6,400 acres.

7. Common Source of Supply. Warren Valley Basin constitutes a common source of supply of water for lands overlying said basin. With the exception of irrigation use on its golf course by Blue Skies and overlying use by Institute, all use of water from the basin is for domestic and municipal purposes. There is no commercial agricultural or industrial use of water from the Basin.

8. Native Safe Yield and Overdraft. The native safe yield of Warren Valley Basin is approximately 200 acre feet per year. Present net consumptive use of Basin waters exceeds substantially said native safe yield. The basin is, and for more than five years prior to filing of the Complaint herein has been, in a condition of overdraft. It is presently estimated that ground water supplies of the Basin are sufficient to meet the needs of

1 the projected overlying population only until about the period
2 1990 to 2000. Supplemental water will, accordingly, be required
3 to meet water demands of the Basin in future years.

4 9. Prescription. The taking of water by the parties
5 hereto has been open, notorious, continuous, hostile, adverse and
6 under claim of right for more than five years prior to filing of
7 the Complaint herein. Said condition of overdraft of Warren
8 Valley Basin has been a matter of common knowledge and all
9 parties and overlying property owners have had notice of said
10 condition during said period of years.

11 10. Zone of Transmission. The area underlying Section 28,
12 Township 1 North, Range 6 East, S.B.B. & M., constitutes a zone
13 of transmission. To the extent that water production overlying
14 said area merely intercepts the outflow from the Warren Valley
15 Basin, such production does not have a significant effect on the
16 ground water of the Basin. It is estimated that such outflow
17 does not have a significant effect on the ground water of the
18 Basin. It is estimated that such outflow does not exceed 80 acre
19 feet per year and that production within said zone of transition
20 up to 80 acre feet should be exempt from obligations, if any, to
21 be imposed under the physical solution hereunder.

22 **B. WATER RIGHTS**

23 11. Overlying Rights. The following parties own lands
24 overlying Warren Valley Basin. By reason of production of water
25 from the Basin during the period 1970-1975, each of said parties
26 has preserved by self help the overlying right to produce up to
27 the quantity of water herein set forth:

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| | <u>Name</u> | <u>Overlying Right</u> | <u>Nature of Use</u> |
|----|--------------------|------------------------|----------------------|
| 1 | | | |
| 2 | Blue Skies: | 585 Acre feet/year | Golf Course |
| 3 | Angelina Boveri | 1 acre foot/year | Domestic - Minimal |
| 4 | Judith G. Buchanan | 1 acre foot/year | Domestic - Minimal |
| 5 | Elmer F. Cloe | 1 acre foot/year | Domestic - Minimal |
| 6 | Marjorie L. Cloe | 1 acre foot/year | Domestic - Minimal |
| 7 | Alta M. Fickle | 1 acre foot/year | Domestic - Minimal |
| 8 | Edward T. Fickle | 1 acre foot/year | Domestic - Minimal |
| 9 | Emma L. Ford | 1 acre foot/year | Domestic - Minimal |
| 10 | Raymond M. Ford | 1 acre foot/year | Domestic - Minimal |
| 11 | Kate Hamilton | 1 acre foot/year | Domestic - Minimal |
| 12 | Agnes Lasley | 1 acre foot/year | Domestic - Minimal |
| 13 | Albert M. Machado | 1 acre foot/year | Domestic - Minimal |
| 14 | Alma Nuckolls (AKA | | |
| 15 | Alma Katje) | 1 acre foot/year | Domestic - Minimal |
| 16 | Albert Paiso | 1 acre foot/year | Domestic - Minimal |
| 17 | Mary Jane Pusey | 1 acre foot/year | Domestic - Minimal |
| 18 | Warren Stoker | 1 acre foot/year | Domestic - Minimal |
| 19 | Patricia Tripp | 1 acre foot/year | Domestic - Minimal |

20 (a) Self Help. By reason of the prescriptive
21 circumstances found in Paragraph 9 hereof, said overlying rights
22 have been prescribed and are thereby limited to the extent of
23 such maximum annual self help by production during the
24 prescriptive period. Said rights remain overlying in character,
25 and as such may only be exercised except for reasonable overlying
26 uses on the lands now owned by said parties.

27 (b) Prescription Against Unused Overlying Rights. By
28 reason of said prescriptive circumstances, all unexercised

1 overlying rights have been lost and extinguished, and no new
2 overlying production may be commenced, so long as Warren Valley
3 Basin remains in a state of overdraft.

4 12. Appropriative Rights. Appropriative rights to the
5 waters of Warren Valley Basin have been perfected by District and
6 Utility. By stipulation of said parties, said appropriative
7 rights shall be deemed, and are hereby decreed, to be of equal
8 priority. Said appropriative rights are exempt from prescription
9 by reason of Section 1007 of the California Civil Code. The
10 respective quantities of said rights are as follows:

| 11 | <u>Name</u> | <u>Appropriative Right</u> |
|----|-------------|----------------------------|
| 12 | District | 896 acre feet/year |
| 13 | Utility | 726 acre feet/year |

14 13. Production in the Zone of Transmission. Institute
15 overlies the Zone of Transmission. Because production in said
16 zone of not more than 80 acre feet per year has no significant
17 effect on the ground waters of the Basin, Institute is accorded
18 the right to produce up to 80 acre feet per year under this
19 Judgment without liability for costs or assessments under any
20 physical solution which may be adopted. To the extent that
21 Institute's production exceeds 80 acre feet per year, Institute
22 shall be subject to the physical solution imposed herein for all
23 such excess production.

24 III

25 INJUNCTION

26 14. Injunction Against Unauthorized Production. Each
27 party, to whom rights to waters of Warren Valley Basin have been
28 declared and decreed herein, together with its officers, agents,

1 employees, successors, assigns, heirs, administrators, executors,
2 lessees and licensees, is ENJOINED AND RESTRAINED from producing
3 water therefrom, except pursuant to the rights herein decreed or
4 pursuant to the provisions of any physical solution which may be
5 adopted under this Judgment.

6 IV

7 CONTINUING JURISDICTION

8 15. Jurisdiction Reserved. Full jurisdiction, power and
9 authority are retained and reserved to the Court for the purpose
10 of enabling the Court upon application of any party or of the
11 Watermaster, by motion and upon at least 30 days' notice thereof,
12 and after hearing thereon, to make such further or supplemental
13 orders or directions as may be necessary or appropriate for
14 interpretation, enforcement or carrying out of this Judgment, and
15 to modify, amend or amplify any of the provisions of this
16 Judgment whenever substantial changes or developments affecting
17 the physical, hydrologic or other conditions dealt with herein
18 may, in the Court's opinion, justify or require such
19 modification, amendment or amplification.

20 V

21 WATERMASTER

22 16. Watermaster Appointment. Hi-Desert County Water
23 District, acting by and through its board of directors, is hereby
24 appointed Watermaster, to administer and enforce the provisions
25 of this Judgment and any subsequent instructions or orders of the
26 Court hereunder.

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PHYSICAL SOLUTION

17. Need for Physical Solution. In order that the Court may assure maximum beneficial use of the water resources of Warren Valley Basin in accordance with Section 2 of Article X of the California Constitution, it is necessary that a physical solution be developed and implemented under the continuing jurisdiction heretofore reserved. Said physical solution is required because:

(a) Safe Yield Operations Are Inappropriate. Warren Valley Basin is a desert ground water basin. It has only a nominal annual replenishment from native waters. To restrict production of the basin to its native safe yield would frustrate all development and use of its resources. The Basin contains substantial supplies of ground water as a result of recharge over geologic time. The overlying economy is dependent upon controlled mining of such water in storage.

(b) Supplemental Water. In the ultimate development of the lands overlying Warren Valley Basin, supplemental water supplies will be required. To that end, the lands overlying the Basin were included within Mojave Water Agency, which has a contractual right to purchase supplemental water from the State Water Resources System. In addition, salvage conservation and reclamation may well afford additional supplemental water.

(c) Need for Funding. Supplemental water, although legally available to the Basin as aforesaid, is not physically or economically available at present. Delivery facilities will require extensive engineering studies, negotiations with other

1 interested agencies, and, most of all, financial arrangements
2 within the capacity of the landowners and water users of Warren
3 Valley Basin. The economy which is built during the period of
4 controlled mining of said basin must ultimately be committed to
5 payment of such supplemental water costs.

6 18. Watermaster to Formulate Proposal. Watermaster is
7 hereby authorized and instructed to formulate and submit to the
8 Court and the parties on or before July 31, 1978, a plan and
9 program for a physical solution herein, together with appropriate
10 provisions for Watermaster administration thereof; provided,
11 however, that the Court hereby finds that it is inappropriate to
12 burden minimal producers with administrative costs, report
13 requirements or assessments so long as the production of any such
14 party is for domestic use and in annual quantities of less than
15 one acre foot (325,851 U.S. gallons). After submission of
16 Watermaster's proposal, Court will, upon notice and after
17 hearing, adopt a physical solution in the exercise of its
18 continuing jurisdiction herein.

19 VII

20 MISCELLANEOUS PROVISIONS

21 19. Service Upon and Delivery to Parties of Various Papers.
22 Service of the Judgment on those parties who have executed the
23 Stipulation for Judgment shall be made by first class United
24 States mail, postage prepaid, addressed to the designee and at
25 the address designated for that purpose in the executed and filed
26 Counterpart of the Stipulation for Judgment, or in any substitute
27 designation filed with the Court.

28 Each party who has not heretofore made such a designation

1 shall, within thirty (30) days after the Judgment shall have been
2 served upon that party, filed with the Court, with proof of
3 service of a copy upon the Watermaster, a written designation of
4 the person to whom and the address at which all future notices,
5 determinations, requests, demands, objections, reports and other
6 papers and processes to be served upon that party or delivered to
7 that party are to be so served or delivered.

8 A later substitute designation filed and served in the same
9 manner by any party shall be effective from the date of filing as
10 to then future notices, determinations, requests, demands,
11 objections, reports and other papers and process to be served
12 upon or delivered to the party.

13 Delivery to or service upon any party by the Watermaster, by
14 any other party, or by the Court, of any item required to be
15 served upon or delivered to a party under or pursuant to the
16 Judgment may be by deposit in the United States mail, first
17 class, postage prepaid, addressed to the designee and at the
18 address in the latest designation filed by that party.

19 20. Judgment Binding on Successors. This Judgment and all
20 provisions hereof are applicable to and binding upon not only the
21 parties to this action, but also upon their respective heirs,
22 executors, administrators, successors, assigns, lessees and
23 licensees and upon the officers, agents, employees and attorneys
24 in fact of all such parties.

25 21. Costs. No party shall recover any costs in this
26 proceeding from any other party.

27 Dated: 3/12/96

28 
JULES E. FLEURET
JUDGE OF THE SUPERIOR COURT

GENERAL LOCATION MAP
WARREN VALLEY BASIN
DELETED FOR PURPOSES OF RECORDATION
PURSUANT TO SAN BERNARDINO SUPERIOR
COURT ORDER ENTERED IN THIS
ACTION ON JULY 29, 1993

EXHIBIT "A"

PROPERTY OWNED BY
PRODUCERS ENTITLED TO EXERCISE
OVERLYING RIGHTS PURSUANT TO THE
JUDGMENT ENTERED IN
HI-DESERT COUNTY WATER DISTRICT V.
YUCCA WATER COMPANY, LTD., ET AL.,
SAN BERNARDINO SUPERIOR COURT CASE NO. 172103

| <u>PARTY'S NAME</u> | <u>ASSESSOR PARCEL NOS. OF OVERLYING LAND OWNED AT TIME OF ENTRY OF JUDGMENT ON SEPTEMBER 15, 1977</u> |
|---|--|
| Blue Skies Country Club, a California corporation | 594-031-09; 594-031-23; 594-041-34; 594-041-35; 586-031-36 |
| Angelina Boveri | 601-122-17; 601-101-02; 598-021-26 |
| Judith G. Buchanan | None |
| Elmer F. Cloe and Marjorie L. Cloe | 601-101-67; 601-101-68; 601-101-69; 601-101-70 |
| Edward T. Fickle and Alta M. Fickle | 601-101-43; 601-101-47 |
| Raymond M. Ford and Emma L. Ford | 594-041-10 |
| Katherine M. Hamilton | 594-051-22 |
| Agnes K. Lasley | 594-031-04 |
| Albert B. Machado | 594-051-16 |
| Alma Nuckolls (aka Alma Katje) | 594-051-19; 586-075-10; 586-102-32; 586-031-38; 586-031-15; 586-102-02; 586-041-04; 586-061-44 |
| Albert Paiso | 594-041-20 |
| Mary Jane Pusey | 586-061-01 |
| Warren Stoker | 586-061-16 |
| Patricia Tripp | 594-051-20 |
| Alma M. Katje, Katherine M. Hamilton, and Patricia H. Tripp | 594-051-02; 594-051-01 |

EXHIBIT "B"